

December 01, 2011

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

0003932586

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Chapter 11 Trustee

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In Re:

SK FOODS, LP, a California limited
partnership, et al.,

Debtors.

CASE NO. 09-29162-D-11

CHAPTER 11

**ORDER DENYING COLLINS &
ASSOCIATES MOTION TO QUASH/FOR
PROTECTIVE ORDER REGARDING
SUBPOENAS ON MECHANICS BANK
AND METRO UNITED BANK**

Date: November 30, 2011

Time: 10:00 am

Courtroom: 34
501 "I" Street, 6th Floor
Sacramento, CA

Judge: Hon. Robert S. Bardwil

Bradley D. Sharp, et al.,

Plaintiffs,

v.

SSC Farms, I, LLC, et al.,

Defendants.

APN: 09-02692-D

DCN: AML-1

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EASTERN DISTRICT OF CALIFORNIA
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ORDER DENYING COLLINS & ASSOCIATES MOTION TO QUASH/FOR PROTECTIVE ORDER

The Court having considered the Motion to Quash/for Protective Order (“Motion”) filed on October 10, 2011, by non-party Collins & Associates (“Collins”) regarding certain subpoenas served on Mechanics Bank and Metro United Bank (the “Banks”) seeking documents regarding bank accounts of Collins (the “Subpoenas”), together with all of the documents filed in support of the Motion, in opposition to the Motion, and in reply to the opposition, and having heard the arguments of counsel at the hearing on November 16, 2011, and good cause appearing for the reasons set forth in the Court’s Civil Minutes (Dkt. No. 418 in AP No. 09-02692), which are incorporated herein by this reference,

IT IS HEREBY ORDERED THAT:

1. The Motion is denied, without prejudice to Collins seeking additional protection of certain documents produced in response to the Subpoenas (the “Produced Documents”), by following the procedure set forth herein below regarding providing a Log of Confidential documents.

2. The Banks shall produce documents in response to the Subpoenas that have been served upon them, copies of which are attached to the Notice of Errata Concerning Exhibits to the Certification of Robert R. Moore Pursuant to Fed. R. Civ. P. 37, filed on October 11, 2011. The Trustee’s¹ counsel is authorized to view the contents of the disk containing Produced Documents that they have already received from Mechanics Bank (the Trustee’s counsel has represented that the disk counsel has been maintained in a sealed envelope, pending the decision on this motion).

3. Until such time as the Log, described below, is provided by Collins to counsel of record for the Parties (the Trustee, the Creditors’ Committee, the Salyer Entities² and the Bank of

¹ The “Trustee” is Plaintiff Bradley D. Sharp, the duly appointed and acting Chapter 11 Trustee of SK Foods, L.P. and RHM Industrial Specialty Foods, Inc. d/b/a Colusa County Canning Co.

² The “Salyer Entities” are the defendants in the three adversary proceedings 09-02692, 10-02014, and 10-02016. Those defendants are Scott Salyer, as a trustee of the Scott Salyer Revocable Trust, SK PM Corporation, SK Foods, LLC, SKF Canning, LLC, Blackstone Ranch Corporation, Monterey Peninsula Farms, LLC, Salyer Management Company, LLC., SK Farms Services, LLC, SK Frozen Foods, LLC, SS Farms, LLC, SSC Farming, LLC, SS Farms I, LLC,

...Continued

1 Montreal), access to the Produced Documents shall be limited to the Parties and their respective
2 counsel of record, who shall treat them as “Confidential,” meaning the Produced Documents will
3 not be shared with individuals or entities other than the Parties, their counsel of record including
4 clerical staff, the Court, the Court’s personnel, and court reporters in depositions. Once the Log
5 is provided, (a) Produced Documents that are identified on the Log shall be treated as
6 Confidential, until such time as the Court resolves Collins’ claims of confidentiality or privacy,
7 but (b) Produced Documents which are not identified on the Log shall no longer be treated as
8 Confidential.

9 4. Within 10 days of entry of this Order, Collins will provide counsel of record for
10 the Parties with a Log of those Produced Documents that Collins claims contain confidential or
11 private information, and for each document contained in the Log, will provide specific authority
12 for his position that a right of privacy applies and sufficient information, in the form of
13 admissible evidence, to enable the Court to determine whether such a right in fact applies.

14 5. If the Trustee wishes to challenge Collins’ claim that any document identified on
15 the Log is confidential or subject to a claim of privacy, then, he shall notify counsel for Collins
16 of his objection to the document’s designation in writing (“Objection”). After an Objection has
17 been made, the counsel for the Trustee and counsel for Collins shall meet and confer, pursuant to
18 Rule 37, in an attempt to resolve Collins’ privacy/confidentiality claim. If counsel are unable to
19 resolve their disagreement within fourteen (14) days after the Trustee makes his Objection, then
20 Collins shall, within seven (7) days thereafter, file a motion to resolve its claim that the
21 document should be treated as Confidential. On that motion, the Court will consider whether the
22 document is legitimately subject to a claim of privacy or confidentiality and whether access to
23 such document should be limited to the Parties and their counsel of record. If Collins fails to file
24 a motion within the seven-day period, the Parties and their counsel will no longer be required to
25 treat the document as Confidential.

26 *Continued from previous page*

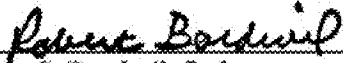
27 SS Farms II, LLC, SS Farms III, LLC, SKF Aviation, LLC, and CSSS, LP d/b/a Central Valley
28 Shippers.

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6. To the extent that any document designated as Confidential needs to be filed with the Court, the Parties will take steps to obtain an order of the Court allowing the document (and any portion of a brief or other paper discussing the document) to be filed under seal.

Dated: December 01, 2011


Robert S. Bardwil, Judge
United States Bankruptcy Court

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CERTIFICATE OF SERVICE

I, Mayra Padilla, declare:

I am employed in the City and County of San Francisco, State of California, in the office of a member of the bar of this court, at whose direction the service was made. I am a citizen of the United States, over the age of eighteen (18) years, and not a party to or interested in the within-entitled action. I am an employee of Schnader Harrison Segal & Lewis LLP, and my business address is One Montgomery Street, 22nd Floor, San Francisco, CA 94104.

On the date below, I served the following documents:

➤ **ORDER DENYING COLLINS & ASSOCIATES MOTION TO QUASH/FOR PROTECTIVE ORDER REGARDING SUBPOENAS ON MECHANICS BANK AND METRO UNITED BANK**

- ☒ By electronic service. Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent on December 1, 2011, to the persons at the electronic notification addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Counsel to Scott Salyer, as Trustee of the Scott Salyer Revocable Trust; SKPM Corp.; SK Foods, LLC; SKF Canning, LLC; The Scott Salyer Revocable Trust; Blackstone Ranch Corporation; Monterey Peninsula Farms; Salyer Management Company, LLC; SK Farms Services, LLC; SK Frozen Foods, LLC; SS Farms, LLC; SSC Farming, LLC; SSC Farms I, LLC; SSC Farms II, LLC; SSC Farms III, LLC; SKF Aviation, LLC; CSSS, LP *dba* Central Valley Shippers; and Robert Pruett in His Capacity as Manager of SSC Farming, SSC Farms I and SSC Farms II

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Additional Parties on Next Page

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d/b/a Central Valley Shippers
Larry J. Lichtenegger
Lichtenegger Law Office
lawyer@mbay.net

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 1, 2011, at San Francisco, California.

/s/ Mayra Padilla
Mayra Padilla